

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THERESA SEDILLO BECERRA,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:20-cv-001423-SAB

ORDER DENYING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
WITHOUT PREJUDICE AND REQUIRING
PLAINTIFF TO FILE LONG FORM
APPLICATION

(ECF No. 2)

TWENTY DAY DEADLINE

Plaintiff Theresa Sedillo Becerra filed a complaint on October 6, 2020, challenging the Commissioner's decision to deny her application for Social Security benefits. Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. However, Plaintiff's application does not demonstrate that she is entitled to proceed without prepayment of fees in this action.

In assessing whether a certain income level meets the poverty threshold under Section 1915(a)(1), courts look to the federal poverty guidelines developed each year by the Department of Health and Human Services. See, e.g., Paco v. Myers, No. CIV. 13-00701 ACK, 2013 WL 6843057 (D. Haw. Dec. 26, 2013); Lint v. City of Boise, No. CV09-72-S-EJL, 2009 WL 1149442, at *2 (D. Idaho Apr. 28, 2009) (and cases cited therein).

Plaintiff's application demonstrates that her family income is \$3,191.31 per month from

her husband's income and food stamps, and that her 22 year old daughter is also dependent on her for support. Therefore, Plaintiff's family income is \$38, 295.72 per year. The 2020 Poverty Guidelines for the 48 contiguous states for a household of three is \$21,720.00 per year. 2020 Poverty Guidelines, <https://aspe.hhs.gov/poverty-guidelines> (last visited October 6, 2020). Plaintiff's income is almost double the poverty guidelines for a family of three which indicates that she is not entitled to proceed in this action without prepayment of fees.

Accordingly, the Court will order Plaintiff to complete and file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239. If Plaintiff is unwilling to complete and submit the long form application, Plaintiff must pay the filing fee in full.

Based upon the foregoing, it is HEREBY ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis* is DENIED without prejudice;
2. The Clerk of the Court is directed to forward an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239 to Plaintiff;
3. Within **twenty (20) days** of the date of this order, Plaintiff shall either (1) pay the \$400.00 filing fee for this action, or (2) complete and file the enclosed Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239; and
4. If Plaintiff fails to comply with this order, this action shall be dismissed for failure to pay the filing fee and failure to comply with a court order.

IT IS SO ORDERED.

Dated: **October 6, 2020**


UNITED STATES MAGISTRATE JUDGE